



# Memorandum

**TO:** MAKING GOVERNMENT  
WORK BETTER

**FROM:** Richard Doyle  
Del Borgsdorf

**SUBJECT:** E-Government Policies

**DATE:** February 10, 2003

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## BACKGROUND

In the Phase II Due Diligence regarding e-Government presented to the City Council Finance and Infrastructure Committee, it was strongly recommended that the City adopt several important policies related to on-line services prior to any further implementation of e-Government type services. Highlighted in particular were policies regarding 1) the purpose of the City's Web Site, 2) use of the City's Web Site for political speech 3) commercial speech, advertising and linking, 4) citizen and customer privacy and disclosure, 5) electronic signature and payments 6) disclaimer 7) ADA Compliance. The purpose of this memorandum is to discuss the both the legal and public policy implications regarding the keeping of data and to recommend official City policies for City Council consideration. These policies will be discussed in the context of increased concerns about security as well as potential use of information for criminal activity.

### 1. PURPOSE OF THE CITY'S WEB PAGE

#### A. **Legal Considerations: First Amendment**

Just as public property can become a public forum for the free expression of ideas, a public entity's presence in cyberspace may become a public forum as well. Over the course of the Twentieth Century, the courts have developed three categories of fora: the traditional public forum, the designated public forum and the nonpublic forum.

**Traditional public fora** are defined by the objective characteristics of the property, such as whether, "by long tradition or by government fiat, the property has been "devoted to assembly and debate." *Perry Ed. Assn. v. Perry Local Educators' Assn.*, 460 US 37, 45 (1992). The government can exclude a speaker from a traditional public forum "only when exclusion is necessary to serve a compelling state interest and the exclusion is narrowly drawn to achieve that interest." *Cornelius v. NAACP Legal Defense and Ed. Fund, Inc.*, 473 US 788, 800 (1985).

**Designated public fora**, in contrast, are created by purposeful government action. "The government does not create a [designated] public forum by inaction or by permitting limited discourse, but only by intentionally opening a nontradition public forum for public discourse." *Cornelius*, 473 US at 802. If the government

excludes a speaker who falls within the class to which a designated public forum is made generally available, its action is subject to strict scrutiny.

Other government properties are either **nonpublic fora** or *not fora at all*. *International Society for Krishna Consciousness, Inc. v. Lee*, 505 US 672, 678-9 (1992). The government can restrict access to a nonpublic forum “as long as the restrictions are reasonable and [are] not an effort to suppress expression merely because public officials oppose the speaker’s view.”

Recently, the United States Supreme Court provided the following guidance:

In summary, traditional public fora are open for expressive activity regardless of the government’s intent. The objective characteristics of these properties require the government to accommodate private speakers. The government is free to open additional properties for expressive use by the general public or by a particular class of speakers, thereby creating designated public fora. Where the property is not a traditional public forum and the government has not chosen to create a designated public forum, the property is either a nonpublic forum or not a forum at all.

*Arkansas Educational Television Commission v. Forbes*, 523 US 666, 678 (1998).

Thus, First Amendment issues with respect to City’s web site will depend on the City’s expressed characterization of its web site as a forum. To date only one reported court decision has attempted this analysis. In *Putnam Pit, Inc. v. City of Cookeville, Tenn.* 221 F.3d 834 (6<sup>th</sup> Cir. 2000), the United States Court of Appeals ruled that a Tennessee city’s refusal to allow a publisher to have a link on the City’s web site may have been a violation of the publisher’s First Amendment free speech rights. At the time the publisher had made the request to have their link appear on the city’s site, the city had already allowed several for-profit and non-profit entities to have links on its Web site. Prior to the request, the City had had no stated policy on which links could appear on its site. After the request, the city manager created a policy limiting links to nonprofit organizations allowing only links that “would promote the economic welfare, tourism, and industry of the city.” Pursuant to this policy the city manager denied the publisher’s request for the link.

The Court first found that the Web page was neither a traditional public forum nor even a designated public forum. Proceeding under the analysis that the web page was a nonpublic forum, the court ruled that “[I]n regulating a nonpublic forum, the city of Cookeville’s policy, in addition to being reasonable in light of the city’s interest, must also be viewpoint neutral.” 221 F.3d at 845.

However, the court held that while the city may “restrict use to those who participate in the forum’s official business,” *it may not do so based on viewpoint*. It further held that “the requirement that Web sites eligible to be linked to the city’s site promote the city’s tourism, industry, and economic welfare gives broad discretion to city officials, raising the possibility of discriminatory application based on viewpoint.” *Id.*

In *Cuffley v. Mickes*, 208 F.3d 702 (8<sup>th</sup> Cir. 2000) *cert. den.* *Yarnell v. Cuffley*, 532 U.S. 903 (2001), the Federal Court of Appeal ruled that Missouri’s “Adopt-A-Highway” program had deprived the Ku Klux Klan

of its equal protection and free speech rights, when it denied their application to be listed as a sponsor of a highway clean-up program on one of Missouri's interstate highways near St. Louis. The court found that Missouri's differential treatment of the application, as well as the procedures created after the initial application had discriminated against the KKK because of the Klan's viewpoint.

## **B. Government as speaker**

In possible contrast to the *Cookeville* case, the Ninth Circuit recently recognized the right of government to express its own viewpoint without triggering a requirement that it allow the expression of alternative viewpoints. In *Downs v. Los Angeles Unified School District*, 228 F3d 1003 (9<sup>th</sup> Cir. 2000), the Ninth Circuit upheld the right of a school district to deny to a teacher access to a bulletin board where there was a display on gay and lesbian awareness month. The teacher had wanted to post material expressing an alternative viewpoint. The Court held that the bulletin board constituted speech attributable to the school district itself, and therefore the teacher had no first amendment right to post materials reflecting a differing viewpoint. In fact, the Ninth Circuit court held:

Viewpoint neutrality, however, does not apply to LAUSD's actions in this case. This case is not controlled by *Hazelwood* or *Planned Parenthood* because it is a case of the government itself speaking, whether the government is characterized as Leichman High, LAUSD, or the school board. It is not a case involving the risk that a private individual's private speech might simply "bear the imprimatur" of the school or be perceived by outside individuals as "school-sponsored." Rather than focusing on what members of the public might perceive Down's speech to be, in this case we find it more helpful to focus on who actually was responsible for the speech on Leichman High's Gay and Lesbian Awareness bulletin boards.

The court found that the principals' "implicit acceptance of other material posted by school faculty and staff that remained on the bulletin boards was equivalent to Leichman High, LAUSD, and the school board itself speaking."

In conclusion the court held

We conclude that when a public high school is the speaker, its control of its own speech is not subject to the constraints of constitutional safeguards and forum analysis, but instead is measured by practical considerations applicable to any individual's choice of how to convey one's self: among other things, content, timing, and purpose. Simply because the government opens its mouth to speak does not give every outside individual or group a First Amendment right to play ventriloquist.

## ***Policy Recommendation: Purpose of the City's Web Site***

In light of these legal rulings, the policy question becomes whether the City's Web Page represents a nonpublic forum in which viewpoint discrimination is prohibited, or whether the City as government itself is the speaker. Under the Sixth Circuit's decision in *Cookeville* a municipality's web page can constitute a

nonpublic forum wherein no viewpoint discrimination can be allowed. If, on the other hand, the web page could be seen more like a school bulletin board, then at least in the Ninth Circuit, because the government itself is the speaker, then no First Amendment analysis at all is required.

In order for the policy regarding the purpose of the City's Web Site to be effective, it must be very clear so that the implementer of the policy is not put into the position of making arbitrary choices. A clearly defined degree of discretion for the person who implements the policy decreases the risk that a negative decision made against the holder of an unpopular viewpoint will be seen as discrimination.

Therefore, it is recommended that the City Council adopt the following statement of purpose that would be included on the City's Web Site.

### ***General Principles***

*The purpose of the City Web Site is to provide information of the City's choosing to the public in order to conduct the City's business and promote the City's goals as guided by the City Council. The City's Web sites and the selection of sites to which any of them may be linked is not intended to serve as a forum for free discussion. Ample facilities for free expression are available both on the Internet and in the physical world. Instead, the City's Web Site is intended to serve the City's need to make useful and practical information available to residents, businesses, and visitors which facilitates provision of a City service or furthers another specifically articulated purpose of the City.*

### ***Scope***

*This policy is applicable to the City's Web Site which is defined as any internet or intranet webpage which represents itself as the City of San Jose or any of its departments, except that of the Library, as to which a separate policy shall apply.*

### ***Development of Content***

*Content to be placed on the City Web Site shall be approved for posting by an authorized member of City staff to promote City goals whenever possible. The City Manager and other City Council appointees are authorized to develop specific content guidelines consistent with this Policy.*

## **2. USE OF CITY'S WEB SITE FOR POLITICAL SPEECH**

There are several legal prohibitions on the use of public funds for political campaigns that hold true for funds spent on the Web site as well. The City may utilize publicly funded communications to provide impartial information about the subject matter of a ballot measure, but only if the communication provides a "fair" presentation and is informational rather than promotional.

***Policy Recommendation: Political Speech***

It is recommended that the City's policy continue to state that

*No public funds will be used to support or oppose a local or statewide ballot measure, and, further, that no public funds will be used for any campaign for public office.*

**3. USE OF CITY'S WEB SITE FOR COMMERCIAL SPEECH / ADVERTISING / LINKING**

Although commercial speech is not protected in the same way as political speech, it is nevertheless afforded substantial protection under the First Amendment, particularly with regard to a viewpoint- based discrimination. The City currently does not allow commercial advertising on its web site. To the extent the City allows commercial advertising for no real official City purpose other than the payment of money or rendering of services to the City, the City will be opening up the City's Web Site as a forum for commercial speech. In addition, links to other commercial sites poses a similar issue for the City. The consequence of either allowing commercial advertisement or allowing links to commercial sites for no real official City purpose will be that the City's ability to determine whether the content of the commercial message or link meets the City's stated official purpose will be extremely limited.

***Policy Recommendation: Commercial Speech / Advertising***

For the abovementioned reasons, it is recommended that the City's policy continue to be:

*The City does not allow any commercial advertising on its Web Site.*

***Policy Recommendation: Commercial Speech / Media Contacts***

Linking to various media sites is complicated by the issue of determining why one media site should be linked to over another with questions of viewpoint discrimination as described above. As a result, it is recommended that the City's policy be as follows:

*The City does not allow any links to any media sites from its Web Site.*

***Policy Recommendation: Linking***

It is recommended that the City's policy regarding linking on a City Web Site be as follows:

*The City will link to sites of its choosing which contain data regarding the City and the Bay Area, its residents, businesses, and visitors, if linking to the site furthers a specific purpose of the City that is articulated in an official written expression of City policies or purposes. These links are provided to further City purposes and not as a benefit to the linking party. No party shall have a right to place a link on any City site by virtue of this policy. "Specifically articulated purposes of the City" are those purposes that are set out in official policy documents of the City. Specifically articulated purposes of the City that could be furthered by providing a link on a City Web site include (but are not limited to):*

- *The promotion of the use of City facilities and services by links to entities that have contracted to utilize City facilities*
- *Making known the availability of services to visitors and citizens by linking to entities that have contracted with the City to provide such services*
- *Making available information about the organizations in which the City itself maintains a membership*
- *The promotion of the internationalization of San Jose by ensuring that the City competes effectively in the global economy, enhances its international profile, draws fully on its diverse multi-ethnic heritage and takes full advantage of international opportunities*
- *Creation of an economically vibrant city by drawing upon the City's competitive assets through the City's relationship with organizations such as Chambers of Commerce, city-to-city committees, sister cities, international and domestic trade service organizations and other organizations to promote trade, investment and cultural activities*
- *Facilitating access to education and health care by providing information about major educational and medical facilities within or nearby the City.*

*The City recognizes that some of the sites the City will provide links to may or may not be subject to the Public Records Act and may or may not be subject to other sections of California Code or Federal law. Visitors to such sites are advised to check the privacy statements of such sites and to be cautious about providing personally identifiable information without a clear understanding of how the information will be used.*

Further, it is recommended that the City Council provide staff with the following policy guidance as it relates to policy implementation related to linking to other web sites from the City's Web Site:

*The City Manager shall establish an administrative policy governing what sites may appear as links on the City Web Site to be implemented in accordance with the following guidelines:*

- *Links may be established to direct providers of services on behalf of the City where the City Manager determines that the link will be useful or beneficial in providing the services.*
- *Links may be established to indirect providers of information and/or services that are beneficial to established municipal goals, policies and/or programs where the City Manager determines that the link to the provider will enhance the ability to achieve the goals, policies and or procedures. In exercising the discretion to establish the link the City Manager may consider the effect on the City website including issues of available space, amount of clutter and required degree of maintenance.*
- *Links may be established to technology providers that provide software products online that are necessary for website visitors to access information or services on the City's website (Adobe Acrobat and Microsoft Windows Media Player).*

*The following factors should be considered in determining if a particular link would serve a specific articulated purpose of the City:*

- 1. Whether the mission of the organization closely align with the accomplishment of a City objective, such that adding the link is helpful in meeting the City's goals.*
- 2. Whether the organization's role as a business partner, contractual partner, or ongoing user of a City facility, is such that the City benefits from promotion of the organization through the link.*
- 3. Whether there is such an abundance of potential links of this nature that a comprehensive list is unreasonable to maintain, and a representative sample would be more useful to a user of the City's Web site.*

#### **4. PRIVACY AND DISCLOSURE**

##### **A. Background**

A major area of policy consideration deals with data about a person's identify that is collected by the City and then coupled with data about what transactions that particular person has engaged in. In the private sector, protections related to this kind of data are largely left up to the contractual relationships between the private businesses and the individuals.

Increasingly, governmental entities are being approached by private enterprises to create public-private partnerships. Partnership offers also take place in the form of web page hosting and design. Often the demographic and consumer information that can be gathered by tracking the use of a government web site can be very valuable to a company that has the capability to use such information. For example, private sector marketing firms use this kind of information for aggressive, targeted advertising campaigns or to re-sell this data to other entities.

Even before the City began its e-Government efforts, the City recognized that it had an obligation to insure that certain information that the City had access to about its citizens and customers should not be made public. For example, the City Attorney's Office successfully defended the City's position that the personal information (names, addresses and telephone numbers) of owners who had obtained licenses for their pets should not be disclosed. The City was also successful in protecting from disclosure the names and addresses of Airport noise complaining parties. However, as the City increasingly uses Internet technology to provide an enhanced level of services to the community, the amount and type of information that the City collects about its citizens and businesses also increases. With that increase in information comes the need for the City to clearly state its position related to the collection and use of personally identifiable information (PII).

## **B. Legal Considerations: Public Records and Protection of Personal Privacy**

Any policies governing what personal information the City collects that it will consider private, or what personal information it will disclose must be in compliance with both Federal laws, specifically the Electronic Communications Privacy Act, and state laws, in particular the Public Records Act.

### **Public Records Act**

Under recently amended provisions of the California Public Records Act most of the City's electronic data is now subject to release as a public record in the format in which it is kept. Almost by definition, virtually everything on the City's Web Page is a public record. Increasingly, however, the City Departments share information with each other through use of the City's Intranet. Given the definition of public record, it would be very hard for the City to state that most of what is on the City's Intranet is not also a public record. However, as discussed above, there may be certain records, such as complaining party information or personnel records that may be subject to privacy or confidentiality claims. In addition, certain companies with which the City has contracts may have asserted proprietary rights in some of the electronic data that they have given to the City. Also, the City may have the right to access certain intellectual property to use in its capacity as government, but the owner of the property may contract with the City to prohibit its commercial reuse.

## **C. Legal Considerations: Disclosure**

Governments do protect certain information from disclosure such as income tax filings, social security numbers and other similar data but general Federal and state laws provide a very low level of protection of such consumer data. See *Electronic Communications Privacy Act*. (Pub.L. 99-508, Oct. 21, 1986, 100 Stat. 1848). In California, the Public Records Act further protects certain information from disclosure. But to a large extent, there are no laws that govern how local governments may choose to provide data collected through the use of their Internet sites to other entities, including private businesses. Protections, if any, are left up to the individual government entities.

There are two levels of information that should be recognized in analyzing what type of information may be appropriate for the City to agree to disclose. First, there is the direct personal information concerning transactions engaged in by persons accessing the City's web site. To some degree, portions of this type of information may always have been considered public, such as building permit application information. It should be noted, however, that even if the information about the identity of individual citizens and details of their personal transactions with a government entity may be public information, the ability to obtain the information in electronic format may make it possible through data analysis to know much more about a particular person than was previously possible. On the other hand, certain information such as reports of complaints of code violations, for example, may have been considered confidential in the past. This type of information should still be considered confidential even if it is received and kept in electronic format.

In addition to information that is directly and consciously submitted to a government web site such as the City's, there may be other data that can be recorded about the use of an Internet site by individuals. This type of information can be obtained through the use of tracking software and through the use of "cookies". A



cookie is a small data file that certain web sites write to a person's hard drive when the person visits that site. A cookie file can contain information such as a user id that the site uses to track the pages that are visited. Cookies can track user traffic patterns, recognize a computer's browser upon return, and could provide personalized content without requiring sign-in.

Someone can refuse cookies by turning them off in their browser. Many jurisdictions are now considering policies with regard to duties toward the persons using the web site.

***Policy Recommendation: Privacy and Disclosure***

It is recommended that the City's Web Site include the following Privacy and Disclosure Statements:

*The purpose of this statement is to define the City of San Jose's policy with regards to the collection and use of personally identifiable information (PII). PII is any information relating to an identified or identifiable individual who is the subject of the information.*

*The City of San Jose collects two kinds of customer information: (1) anonymous; (2) personally identifiable information (PII).*

*Anonymous information:* *This type of information does not identify specific individuals and is automatically transmitted by your browser. This information consists of:*

- *The URL (Uniform Resource Locator or address) of the web page you previously visited;*
- *The domain names and/or IP addresses which are numbers that are automatically assigned to your computer whenever you are connected to the Internet or World Wide Web.*
- *The browser version you are using to access the site.*

*This information is used to help improve the City's Web Site. None of the information can be linked to an individual.*

*Personally Identifiable Information (PII):* *This type of information could include name, address, email address, telephone number, credit/debit card information. The City will make every reasonable effort to protect your privacy. It restricts access to your personal identifiable information to those employees who will respond to your request. The City does not intentionally disclose any personal information about our customers to any third parties or outside the City except as required by law or by the consent of the person providing the information.*

*The City only collects personally identifiable information that is required to provide service. You can decline to provide us with any personal information. However, if you should choose to withhold requested information, the City may not be able to provide you with the online services dependent upon the collection of that information.*

#### Access to Personally Identifiable Information

*Access to personally identifiable information in public records at local levels of government in San Jose is controlled primarily by the California Public Records Act (Government Code Section 6250, et. seq.). Information that is generally available under the Public Records Act may be posted for electronic access through the City's web site. While the Public Records Act sets the general policies for access to City records, other sections of the California code as well as federal laws also deal with confidentiality issues.*

#### Email addresses

*Email addresses obtained through the City's Web Site will not be sold or given to other private companies for marketing purposes. The information collected is subject to the access and confidentiality provisions of the Public Records Act, other applicable sections of the California code as well as Federal laws. Email or other information requests sent to the City Web Site may be maintained in order to respond to the request, forward that request to the appropriate agency within the City, communicate updates to the City page that may be of interest to citizens, or to provide the City web designer with valuable customer feedback to assist in improving the site. Individuals can cancel any communications regarding new service updates at any time.*

#### Use of "Cookies"

*Some City applications use "cookies". A cookie is a small data file that certain web sites write to your hard drive when you visit them. A cookie file can contain information such as a user id that the site uses to track the pages you have visited. But the only personal information a cookie can contain is information you supply yourself. A cookie is only a text file and cannot read data off your hard disk or read cookie files created by other sites. Cookies can track user traffic patterns, recognize your computer's browser when you return, and could provide personalized content without requiring sign-in.*

*You can refuse cookies by turning them off in your browser. However, they may be required to use some of the web applications on the City's site.*

#### Security

*The City of San Jose is committed to data security and the data quality of personally identifiable information that is either available from or collected by the City's Web Site and has taken reasonable precautions to protect such information from loss, misuse, or alteration.*

#### **Policy Recommendation: Contractual Services for the City's Web Site and On-Line Services**

It is recommended that the City include the following language in its contracts:

*To insure that contractors who have access to or provide contractual services for the City's On-Line (e-government) Services are not allowed to re-sell or in any way share or convey to another party or use it for another purpose any information that they may have access to in the course of doing business*

*for the City; all city contracts regarding such services should contain a requirement that the contractor must comply with the City's Web Site and e-Government policies.*

## **5. ELECTRONIC SIGNATURES**

Both federal and state law now permit certain transactions with the government entirely in electronic form.<sup>1</sup> Typically, these new laws provide that an "electronic signature" has the same force and effect as a traditional pen and ink signature on a permit application, for example. An "electronic signature" has been defined as "an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record."

### ***Policy Recommendation: Electronic Signatures and Payments***

It is recommended that the following policy statement be included in the City's Web Site.

*The City of San Jose is committed to data security and the data quality of personally identifiable information that is either available from or collected by our web site and has taken reasonable precautions to protect such information from loss, misuse, or alteration. When a City application accepts credit cards or any other particularly sensitive information for any of its services, it encrypts all ordering information, such as your name and credit card number, in order to protect its confidentiality.*

## **6. DISCLAIMER**

With the amount of information now kept in electronic format and with the frequency with which the information changes it would be almost impossible to keep all of the information on a web site completely updated. Often the information on the web site is in addition to the "official" written records in a government's offices.

### ***Policy Recommendation: Disclaimer***

In order to protect the City, it is recommended that the City include on its Web Site the following disclaimer:

*The City of San Jose is neither responsible nor liable for any delays, inaccuracies, errors or omissions arising out of your use of the Site or with respect to the material contained on the Site, including without limitation, any material posted on the Site nor for any viruses or other contamination of your system. The City Site and all materials contained on it are distributed and transmitted "as is" without warranties of any kind, either express or implied, including without limitations, warranties of title or implied warranties of merchantability or fitness for a particular purpose. The City of San Jose is not responsible for any special, indirect, incidental or consequential damages that may arise from the use of, or the inability to use, the Site and/or the materials contained on the Site whether the materials contained on the Site are provided by*

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<sup>1</sup> "Electronic Signatures in Global and National Commerce Act" 15 USC 7001 *et seq.*

*the City of San Jose or a third party. The City of San Jose is neither responsible nor liable for any viruses or other contamination of your system.*

#### Access to Information

*Unless otherwise prohibited by state or federal law, rule or regulation, you will be granted the ability to access and correct any personally identifiable information. The City will take reasonable steps to verify your identity before granting such access. Each City service that collects personally identifiable information will allow or review and update of that information.*

#### Non-City Web Sites

*Non-city web sites may be linked through the City's web site. Many non-city sites may or may not be subject to the Public Records Act and may or may not be subject to other sections of the California Code or federal law. Visitors to such sites are advised to check the privacy statements of such sites and to be cautious about providing personally identifiable information without a clear understanding of how the information will be used.*

*The City is not responsible for, and accepts no liability for, the availability of these outside resources. Linked Web sites are not under the control of, nor maintained by, the City and the City is not responsible for the content of these Web sites, which can and do change frequently; nor for any internal links the displayed Web sites may contain. In addition, inclusion of the linked Web sites does not constitute an endorsement or promotion by the City of any persons or organizations sponsoring the displayed Web sites.*

## **7. DISABLED ACCESS**

The City of San José World Wide Web Page Disability Access Design Standards can be found at **[www.ci.san-jose.ca.us/oaacc/disaccess.html](http://www.ci.san-jose.ca.us/oaacc/disaccess.html)**.

#### ***Policy Recommendation: Disabled Access***

It is recommended that the City's policy be as follows:

*The City's website will maintain compliance with accepted disability access design standards to ensure that people with disabilities can easily access City information.*

## **CONCLUSION**

Staff recommends that the City Council adopt the Proposed Policies related to the City's Web Site and e-government services.

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RE: e-Government policies  
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DEL BORGSDORF  
City Manager

RICHARD DOYLE  
City Attorney



# **PROPOSED E-GOVERNMENT POLICY**

## ***General Principles***

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## ***Political Speech***

*No public funds will be used to support or oppose a local or statewide ballot measure, and, further, that no public funds will be used for any campaign for public office.*

## ***Commercial Speech / Advertising***

*The City does not allow any commercial advertising on its Web Site.*

## ***Commercial Speech / Media Contacts***

*The City does not allow any links to any media sites from its Web Site.*

## ***Linking***

*The City will link to sites of its choosing which contain data regarding the City and the Bay Area, its residents, businesses, and visitors, if linking to the site furthers a specific purpose of the City that is articulated in an official written expression of City policies or purposes. These links are provided to further City purposes and not as a benefit to the linking party. No party shall have a right to place a link on any City site by virtue of this policy. "Specifically articulated purposes of the City" are those purposes that are set out in official policy documents of the City. Specifically articulated purposes of the City that could be furthered by providing a link on a City Web site include (but are not limited to):*

- The promotion of the use of City facilities and services by links to entities that have contracted to utilize City facilities*
- Making known the availability of services to visitors and citizens by linking to entities that have contracted with the City to provide such services*
- Making available information about the organizations in which the City itself maintains a membership*

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### ***Policy Guidelines for implementation of Linking Policy***

*The City Manager shall establish an administrative policy governing what sites may appear as links on the City Web Site to be implemented in accordance with the following guidelines:*

- *Links may be established to direct providers of services on behalf of the City where the City Manager determines that the link will be useful or beneficial in providing the services.*
- *Links may be established to indirect providers of information and/or services that are beneficial to established municipal goals, policies and/or programs where the City Manager determines that the link to the provider will enhance the ability to achieve the goals, policies and or procedures. In exercising the discretion to establish the link the City Manager may consider the effect on the City website including issues of available space, amount of clutter and required degree of maintenance.*
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*The following factors should be considered in determining if a particular link would serve a specific articulated purpose of the City:*

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3. *Whether there is such an abundance of potential links of this nature that a comprehensive list is unreasonable to maintain, and a representative sample would be more useful to a user of the City's Web site.*

### ***Privacy and Disclosure***

*The purpose of this statement is to define the City of San Jose's policy with regards to the collection and use of personally identifiable information (PII). PII is any information relating to an identified or identifiable individual who is the subject of the information.*

*The City of San Jose collects two kinds of customer information: (1) anonymous; (2) personally identifiable information (PII).*

*Anonymous information:* *This type of information does not identify specific individuals and is automatically transmitted by your browser. This information consists of:*

- *The URL (Uniform Resource Locator or address) of the web page you previously visited;*
- *The domain names and/or IP addresses which are numbers that are automatically assigned to your computer whenever you are connected to the Internet or World Wide Web.*
- *The browser version you are using to access the site.*

*This information is used to help improve the City's Web Site. None of the information can be linked to an individual.*

*Personally Identifiable Information (PII):* *This type of information could include name, address, email address, telephone number, credit/debit card information. The City will make every reasonable effort to protect your privacy. It restricts access to your personal identifiable information to those employees who will respond to your request. The City does not intentionally disclose any personal information about our customers to any third parties or outside the City except as required by law or by the consent of the person providing the information.*

*The City only collects personally identifiable information that is required to provide service. You can decline to provide us with any personal information. However, if you should choose to withhold requested information, the City may not be able to provide you with the online services dependent upon the collection of that information.*

### *Access to Personally Identifiable Information*

*Access to personally identifiable information in public records at local levels of government in San Jose is controlled primarily by the California Public Records Act (Government Code Section 6250, et. seq.). Information that is generally available under the Public Records Act may be posted for electronic access through the City's web site. While the Public Records Act sets the general policies for access to City records, other sections of the California code as well as federal laws also deal with confidentiality issues.*

### *Email addresses*

*Email addresses obtained through the City's Web Site will not be sold or given to other private companies for marketing purposes. The information collected is subject to the access and confidentiality provisions of the Public Records Act, other applicable sections of the California code as well as Federal laws. Email or other information requests sent to the City Web Site may be maintained*

*in order to respond to the request, forward that request to the appropriate agency within the City, communicate updates to the City page that may be of interest to citizens, or to provide the City web designer with valuable customer feedback to assist in improving the site. Individuals can cancel any communications regarding new service updates at any time.*

#### *Use of “Cookies”*

*Some City applications use “cookies”. A cookie is a small data file that certain web sites write to your hard drive when you visit them. A cookie file can contain information such as a user id that the site uses to track the pages you have visited. But the only personal information a cookie can contain is information you supply yourself. A cookie is only a text file and cannot read data off your hard disk or read cookie files created by other sites. Cookies can track user traffic patterns, recognize your computer’s browser when you return, and could provide personalized content without requiring sign-in.*

*You can refuse cookies by turning them off in your browser. However, they may be required to use some of the web applications on the City’s site.*

#### *Security*

*The City of San Jose is committed to data security and the data quality of personally identifiable information that is either available from or collected by the City’s Web Site and has taken reasonable precautions to protect such information from loss, misuse, or alteration.*

#### ***Contractual Services for the City’s Web Site and On-Line Services***

*To insure that contractors who have access to or provide contractual services for the City’s On-Line (e-government) Services are not allowed to re-sell or in any way share or convey to another party or use it for another purpose any information that they may have access to in the course of doing business for the City; all city contracts regarding such services should contain a requirement that the contractor must comply with the City’s Web Site and e-Government policies.*

#### ***Electronic Signatures and Payments***

*The City of San Jose is committed to data security and the data quality of personally identifiable information that is either available from or collected by our web site and has taken reasonable precautions to protect such information from loss, misuse, or alteration. When a City application accepts credit cards or any other particularly sensitive information for any of its services, it encrypts all ordering information, such as your name and credit card number, in order to protect its confidentiality.*

#### ***Disclaimer***

*The City of San Jose is neither responsible nor liable for any delays, inaccuracies, errors or omissions arising out of your use of the Site or with respect to the material contained on the Site, including without limitation, any material posted on the Site nor for any viruses or other contamination of your system. The City Site and all materials contained on it are distributed and transmitted “as is” without warranties of any kind, either express or implied, including without limitations, warranties of title or implied warranties of merchantability or fitness for a particular purpose. The City of San Jose is not responsible for any special, indirect, incidental or consequential damages that may arise from the use of, or the inability to use, the Site and/or the materials contained on the Site whether the materials*

*contained on the Site are provided by the City of San Jose or a third party. The City of San Jose is neither responsible nor liable for any viruses or other contamination of your system.*

#### **Access to Information**

*Unless otherwise prohibited by state or federal law, rule or regulation, you will be granted the ability to access and correct any personally identifiable information. The City will take reasonable steps to verify your identity before granting such access. Each City service that collects personally identifiable information will allow or review and update of that information.*

#### **Non-City Web Sites**

*Non-city web sites may be linked through the City's web site. Many non-city sites may or may not be subject to the Public Records Act and may or may not be subject to other sections of the California Code or federal law. Visitors to such sites are advised to check the privacy statements of such sites and to be cautious about providing personally identifiable information without a clear understanding of how the information will be used.*

*The City is not responsible for, and accepts no liability for, the availability of these outside resources. Linked Web sites are not under the control of, nor maintained by, the City and the City is not responsible for the content of these Web sites, which can and do change frequently; nor for any internal links the displayed Web sites may contain. In addition, inclusion of the linked Web sites does not constitute an endorsement or promotion by the City of any persons or organizations sponsoring the displayed Web sites.*

#### **Disabled Access**

*The City's website will maintain compliance with accepted disability access design standards to ensure that people with disabilities can easily access City information.*